

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**JEFFERSON COUNTY COMMISSION, PATRICIA  
NOLAND, as an individual and behalf of all other similarly  
situated, and DALE MANUEL, as an individual and on behalf  
of all other similarly situated,**

*Plaintiffs,*

**v.**

**Civil Action No. 2:11-CV-00989  
(Judges Bailey, King and Berger)**

**THORNTON COOPER,**

*Intervening Plaintiff,*

**v.**

**NATALIE E. TENNANT, in her official capacity as the Secretary of State,  
EARL RAY TOMBLIN, in his capacity as the Chief Executive  
Officer of the State of West Virginia, JEFFREY KESSLER, in his  
Capacity as the Acting President of the Senate of the West Virginia  
Legislature, and RICHARD THOMPSON, in his Capacity as the Speaker of the  
House of Delegates of the West Virginia Legislature.**

*Defendants.*

**NOTICE OF WITHDRAWAL OF MOTION TO STRIKE**

The plaintiffs hereby withdraw their previously filed "Combined Motion to Strike" (Doc. 49) as they have verified that the Clerk of the Senate in fact certified two different records on different dates, the first certification having been signed on December 16, 2011 and the second certification on December 19, 2011. However, and as stated by the Defendants, the Journal of the Senate reflects that the Senate gave unanimous consent to the transcript at issue being made a part of the official Senate record notwithstanding the Clerk of the Senate's failure to include that transcript in his December 16, 2011 Certification.

Therefore, the plaintiffs withdraw their motion to strike.

Dated this the 23rd day of December, 2011.

Respectfully submitted,

/s/ David M. Hammer  
David M. Hammer, Esq.  
(WV #5047)  
Hammer, Ferretti & Schiavoni  
408 West King Street  
Martinsburg, WV 25401  
(304) 264-8505  
(304) 264-8506 (fax)  
Email: [dhammer@hfslawyers.com](mailto:dhammer@hfslawyers.com)

/s/ Stephen G Skinner  
Stephen G. Skinner, Esq.  
(WV # 6725)  
PO Box 487  
Charles Town, WV 25414  
(304) 725-7029  
(304) 725-4082(fax)  
Email: [sskinner@skinnerfirm.com](mailto:sskinner@skinnerfirm.com)

Counsel for Plaintiff Jefferson  
County Commission, Patricia  
Noland, and Dale Manuel

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**JEFFERSON COUNTY COMMISSION, PATRICIA  
NOLAND, as an individual and behalf of all other similarly  
situated, and DALE MANUEL, as an individual and on behalf  
of all other similarly situated,**

*Plaintiffs,*

vi.

**Civil Action No. 2:11-CV-00989  
(Judges Bailey, King and Berger)**

**THORNTON COOPER,**

*Interveing Plaintiff,*

v.

**NATALIE E. TENNANT, in her official capacity as the Secretary of State,  
EARL RAY TOMBLIN, in his capacity as the Chief Executive  
Officer of the State of West Virginia, JEFFREY KESSLER, in his  
Capacity as the Acting President of the Senate of the West Virginia  
Legislature, and RICHARD THOMPSON, in his Capacity as the Speaker of the  
House of Delegates of the West Virginia Legislature.**

*Defendants.*

**CERTIFICATE OF SERVICE**

I, David M. Hammer, hereby certify that on December 23, 2011, I electronically  
filed the foregoing with the Clerk of the Court using the CM/ECF system evidencing  
electronic service of *Notice of Withdrawal of Motion to Strike* upon the following counsel  
of record:

Stuart Thornton Cooper  
3015 Ridgeview Drive  
South Charleston, WV 25303  
Counsel for Intervenor Plaintiff

George Carenbauer  
Steptoe & Johnson, PLLC-Charleston  
PO Box 1588

Charleston, WV 25326  
Counsel for Defendant Jeffrey Kessler

Cynthia Majestro  
Powell & Majestro  
405 Capitol Street, Suite P-1200  
Charleston, WV 25301  
Counsel for Defendant Richard Thompson

Thomas Rodd  
Assistant Attorney General  
Office of the Attorney General  
812 Quarrier St 6<sup>th</sup> Floor  
Charleston, WV 25301  
Counsel for Defendant Natalie Tennant

/s/ David M. Hammer  
David M. Hammer, Esq. (WV #5047)  
Hammer, Ferretti & Schiavoni  
408 West King Street  
Martinsburg, WV 25401  
(304) 264-8505  
Counsel for Plaintiff Jefferson County  
Commission, Patricia Noland, and Dale  
Manuel